

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

UNITED STATES OF AMERICA,)	
Plaintiff,)	
)	
v.)	Docket No. 2:18-CR-00006
)	
BRIAN FOLKS,)	
Defendant.)	

SUPPLEMENTAL MOTION FOR DETENTION OF MATERIAL WITNESS

NOW COMES the United States of America, by and through its attorney, Christina E. Nolan, United States Attorney for the District of Vermont, and moves for detention of material witness Katelynn Charbonneau pursuant to 18 U.S.C. § 3144, until her sworn trial testimony can be obtained in United States v. Folks, currently scheduled to begin April 30, 2018, in Burlington, Vermont.

1. Eligibility for Detention. Pursuant to 18 U.S.C. § 3144, the Court may detain a material witness in a criminal proceeding where it is shown that “it may become impracticable to secure the presence of the person by subpoena.” The detention considerations of section 3142 of the Bail Reform Act apply to the detention of material witnesses. On April 23, 2018, based on a motion by the government and the affidavit of Special Agent Adam Chetwynd, this Court issued an arrest warrant for the witness pursuant to 18 U.S.C. § 3144.

2. Reason For Detention. The Court should detain the defendant because there are no conditions of release that will reasonably assure the witness’ appearance at trial as required by the Court. *See United States v. Awadallah*, 349 F.3d 42, 63 n.15 (2d Cir. 2003) (detaining material witness for twenty days before testifying in grand jury and considering the witness’

“character; his physical and mental condition; his family, employment, and community ties; and his financial resources” as part of detention analysis).

3. Standard of Proof. A court’s finding that no combination of conditions will reasonably assure the defendant’s appearance must be supported by a preponderance of evidence. *See United States v. Friedman*, 837 F.2d 48, 49 (2d Cir. 1988).

4. Facts in Support. The government secured trial witness subpoenas for Charbonneau on January 9, 2018, February 27, 2018, and April 5, 2018. Agents made several attempts to locate Charbonneau but were unsuccessful.

On April 4, 2018, Aimee Stearns, Victim Assistance Specialist with the United States Attorney’s Office met with Charbonneau at a public establishment. During the meeting, Charbonneau asked if she really had to testify and how much jail time she would face for failing to appear. Stearns explained some of the procedures related to testifying as a witness. At the conclusion of the meeting, Charbonneau agreed to meet again at the U.S. Attorney’s Office on April 9, 2018. Charbonneau failed to appear for the meeting and ceased telephonic communication with Stearns.

On April 25, 2018, United States marshals located Charbonneau sleeping on the floor on a mattress pad in the studio apartment located at 230 St. Paul Street, Apartment 1115. The residence was occupied by Daniel Culver and Errol Richards. Due to an active warrant, Richards was taken into custody by members of the Burlington Police Department. Inside the apartment, federal agents observed a crack pipe, baggies consistent with drug packaging, a substance that appeared to be drug residue, and baking soda stored under circumstances that suggested that cocaine base had recently been cooked in that apartment. Additionally, approximately \$1000 in cash was located within the apartment.

Since Charbonneau's arrest, she has been distraught and angry. Among other things, she has been yelling to the marshals that they cannot protect her from Brian Folks, that this is "all [their] fault," that they are making her lose custody of her child, and that she does not want to testify ("I'm not doing this sh*t."). Charbonneau has also been uncooperative, stating that she refuses to talk both to the Office of United States Probation and the attorney who has been appointed to represent her.

Therefore, unless this witness is detained, there is a substantial risk that she will flee, and there are no conditions that could reasonably assure her appearance as a witness at trial.

Dated at Burlington, in the District of Vermont, this 25th day of April, 2018.

Respectfully submitted,

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Certificate of Service

By filing the above document this day via the Court's electronic filing system, I certify that a copy will be served on Devin McLaughlin, Counsel for Defendant, via ECF.

Dated: April 25, 2018
Burlington, Vermont

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